

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1998V

UNPUBLISHED

TRACY RENEE RUDDY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 9, 2021

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.

Lynn Christina Schlie, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 30, 2019, Tracy Renee Ruddy filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.² (the “Vaccine Act”). Petitioner alleges that she suffered right shoulder injuries related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered on December 15, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 5, 2021, I issued a Fact Ruling (ECF No. 21). In the ruling, I determined, based on a preponderance of the evidence, that Petitioner’s December 15, 2017 flu vaccine was more likely than not administered in her right arm. *Id.* at *4.

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On August 6, 2021, Respondent filed his Rule 4(c) report in which he concedes that, in light of the fact ruling and evidence in this case, Petitioner is entitled to compensation for SIRVA in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent states:

[W]hile preserving his right to appeal the Court's March 5, 2021 finding that petitioner had provided preponderant evidence that the flu vaccine was more likely than not administered in her right arm, respondent accepts this ruling as the law of the case for purposes of further proceedings before the Office of Special Masters.

In light of the Court's fact ruling and medical record evidence submitted in this case, DICP has concluded that petitioner has satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation ("QAI"). That is, petitioner had no relevant history of pain, inflammation, or dysfunction in her right shoulder; her pain and reduced range of motion occurred within 48 hours of receipt of an intramuscular vaccination; her symptoms were limited to the shoulder in which the vaccine was administered; and no other condition or abnormality was identified to explain her symptoms. 42 C.F.R. § 100.3(a), (c)(10). With respect to other statutory and jurisdictional issues, the petition was timely filed, the vaccine was received in the United States, and petitioner satisfies the statutory severity requirement by suffering the residual effects of complications of her injury for more than six months after vaccine administration.

Respondent's Rule 4(c) Report at 8.

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master